

REMARKS

Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and the following remarks. Although Applicants believe the claims are allowable in their original form and hereby reserve the right to pursue said original claims at a later time, claims 1, 3, 51, 58, 87, 109, 116, 166, 173, 223, 230, 236, 242, 254 have been amended by this Response to correct typographical errors and better track current business practices. Claims 1, 58, 116, 173, 230, 236, 242, 248, 254 are independent. Applicants submit that support for the amendments may be found throughout the originally filed specification, drawings and claims and that no new matter has been added by way of this Response. Claims 1-268 are currently pending.

Claim Objections

The Office Action has objected to claims 1, 3, 58 , 87-88, 116, and 173 as allegedly having defects. Although Applicants believe the claims are allowable in their original form and hereby reserve the right to pursue said original claims at a later time, claims 1, 3, 58, 87, 116, 173 have been amended by this Response to correct typographical errors and better track current business practices. Accordingly, Applicants respectfully submit that the Office Action's objections have been overcome.

Rejections under 35 U.S.C. § 101

Claims 1-268 have been rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants respectfully traverse. Applicants respectfully submit that there is no test for non-statutory subject matter that subjectively precludes the aforementioned claims. Per MPEP § 2106, Section IV, the Office Action is instructed to "[d]etermine whether the claimed invention complies with 35 U.S.C. 101." MPEP § 2106, IV(B)(1)(a-c) establishes three categories for Non-Statutory subject matter:

- a). Functional Descriptive Material;
- b.) Nonfunctional Descriptive Material; and
- c.) Natural Phenomena Such as Electricity and Magnetism.

Applicants submit that the elements recited in claims 1-268 are, in fact, directed to statutory subject matter and are not precluded by any of the established categories of Non-Statutory subject matter. More specifically, a medium, e.g., such as a fixed disc, random-access memory, read-only memory, etc., all, may tangibly hold the elements described in claims 1-268 without any energy. With regard to the method based claims, although not required to be patentable subject matter, are in fact, processor-enabled methods, and operate in a specific environment that is patentably allowable subject matter.

Therefore, applicants request withdrawal of this ground of rejections. Should the Examiner disagree, applicants respectfully request additional clarification of the rejections with regard to the established categories of Non-Statutory subject matter.

Rejections under 35 U.S.C. § 112

The Office Action rejects claims 48- 57, 106- 115, 163- 229, 248- 268 under 35 U.S.C. § 112, second paragraph as being indefinite and for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 48, 106, 163, and 220

With regard to claims 48, 106, 163, and 220 and its limitations of “adjusting rankings based on voting results,” Applicant respectfully traverses the rejection. Applicant asserts that the claim may apply to adjust any rankings including, but not limited to, either competitor and/or audience member rankings. There is no requirement that applicant limit the claim to a particular ranking as the disclosure discusses numerous embodiments where various

rankings are adjusted. Furthermore, introduction of the rankings in the defendant claim requires no further antecedent basis, as the element is introduced therein. As such, applicant asserts these claims are in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for similar reasons.

Claims 49-57, 107-115, 164-172, and 221-229

With regard to claims 49-57, 107-115, 164-172, and 221-229, as it was rejected on the basis of claims 48, 106, 163 and 220, above, and applicant traversed said rejection, applicant, similarly, asserts these claims are also in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for similar reasons.

Claims 51, 109, 166, and 223

With regard to claims 51, 109, 166, and 223 and its limitations of “wherein rankings take experience into account,” amendments have been made to better track current practices. As such, applicant asserts these claims are in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for said reasons.

Claims 52- 57, 110- 115, 167- 172, and 224-229

With regard to claims 52- 57, 110- 115, 167- 172, and 224-229, as it was rejected on the basis of claims 51, 109, 166, and 223, above, and applicant traversed said rejection, applicant, similarly, asserts these claims are also in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for similar reasons.

Claims 173 and 248

With regard to claims 173 and 248 and its limitations of “a processor that may issue,” applicant respectfully traverses the rejection. Applicant asserts that the claim is appropriate. Applicant disagrees with the Office Action’s assertion that “the claim would be anticipated by any computer with a memory and processor” as the claim goes on to note requisite processor instructions. As such, applicant asserts these claims are in a condition for

allowance and requests the withdrawal of the rejection and allowances of said claims for the aforementioned reasons.

Claims 174-229 and 249-253

With regard to claims 174-229 and 249-253, as it was rejected on the basis of claims 173 and 248, above, and applicant traversed said rejection, applicant, similarly, asserts these claims are also in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for similar reasons.

Claims 58 and 236

With regard to claims 58 and 236 and its limitations of “means to” being unclear to the Examiner regarding how recited claim constitutes a claim. Applicant respectfully traverses the rejection. Applicant asserts that the claim is appropriate. Applicant notes that although not limited to the following example, Figure 1 and paragraph 60 et seq. provides ample detail regarding systemization of the claim. . As such, applicant asserts these claims are in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for the aforementioned reasons.

Claims 59-115 and 237-241

With regard to claims 59-115 and 237-241, as it was rejected on the basis of claims 58 and 236, above, and applicant traversed said rejection, applicant, similarly, asserts these claims are also in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for similar reasons.

Claims 254

With regard to claims 58 and 236 and its limitations of “fields” being unclear to the Examiner regarding “instructions.” Applicant respectfully traverses the rejection. Applicant asserts that processors instructions sets include data instructions as well. Further, program instructions for execution on a processor can take the form to provide data fields using database

program code. Applicant notes that although not limited to the following example, the database 119 of Figure 1 discussed at paragraphs 83 et seq. provides ample detail regarding program code executed by the CPU to allow for database field constructs and operation (see paragraph 86).

Claims 255-268

With regard to claims 255-268, as it was rejected on the basis of claims 254, above, and applicant traversed said rejection, applicant, similarly, asserts these claims are also in a condition for allowance and requests the withdrawal of the rejection and allowances of said claims for similar reasons.

As such, claims noted in the Office Action in the § 112 rejection (and claims depending therefrom) are believed to be in a condition for allowance and applicant requests the withdrawal of the rejection and allowance of said claims for the above reasons

Rejections under 35 U.S.C. § 102

Claims 1-4, 6-10, 12, 14, 20, 25-26, 29-31, 35, 39, 45-47, 58-61, 63-67, 69, 71, 77, 82-83, 86-89, 93, 97, 103-105, 116-119, 121-125, 127, 129, 135, 140-141, 144 - 146, 150, 154, 160-162, 173-176, 178-182, 184, 186, 192, 197-198, 201-203, 207, 211, 217-219, 254-258, and 260-268 (and any claims that may depend therefrom) have been rejected under 35 U.S.C. § 102 as allegedly being anticipated and unpatentable by Paul (US Patent Application No. 2003/0171982). With regard to this and the other noted references, applicant does not concede that said reference predates the conception/reduction to practice of applicant's invention nor does applicant concede it is an appropriate reference. However, in order to advance prosecution, applicant traverses the Office Action references. Applicant respectfully traverses the rejection.

The Office Action asserts that Paul teaches each claim element of claim 1, however, this is in err. Paul simply is silent on “providing an offer to compete” or “obtaining an acceptance to an offer.” Paragraph 16 of Paul makes it clear there is no “providing an offer to compete” noting that “person then will select the particular battle stage that has openings for competitors or observers.” There is no offer to compete provided to anyone in Paul, and Paul makes clear that person must themselves root around the system, locate an opening, and inject themselves, sans any concept of an offer, into an opening. As there is no concept of an offer in Paul (nor in any of the other references noted in the Office Action), there can be no “obtaining an acceptance to an offer to compete;” moreover, any “pairing...of competitors” that provided offer/acceptance indications is also impossible and wholly absent in Paul (and all the other references noted in the Office Action).

As claim elements revolving around “offer” and “acceptance” to “compete” are present in all the independent claims 1, 3, 51, 58, 87, 109, 116, 166, 173, 223, 230, 236, 242, 254 (and as a consequence, claims depending therefrom), and Paul and the other references do not teach each and every element in the present claims, either alone or in combination, therefore, the present claims are believed to be allowable, and applicant hereby requests the withdrawal of this and all other rejections regarding independent claims 1, 3, 51, 58, 87, 109, 116, 166, 173, 223, 230, 236, 242, 254 (and as a consequence, claims depending therefrom), and applicant hereby requests allowance of said claims.

Rejections under 35 U.S.C. § 103

The Office Action has rejected various claim series resulting in the rejection of all claims 1-268 under 35 USC § 103(a) as being unpatentable (see Office Action item 9.) over Paul in view of US Patent Application No. 2003/0190960 to Jokipii (see Office Action item 10.), in view of Official Notice (see Office Action item 11), in view of US Patent No. 7,162,433 to Foroutan (see Office Action item 12), in view of US Patent No. 5,916,024 to Von Kohorn

(see Office Action item 14.), and combinations thereof (see Office Action items 13., 15., and 16.). However, in all the above noted rejections and in the above noted references, claim elements regarding “offer” “acceptance” to “compete” are all missing as discussed, above, with regard to the § 102 Paul rejection. As such, for similar reasons, as none of the Office Action’s cited § 103 references provide such elements, they fail to teach each and every claimed element as required to render the present claims unpatentable.

Similarly, as claim elements revolving around “offer” and “acceptance” to “compete” are present in all the independent claims 1, 3, 51, 58, 87, 109, 116, 166, 173, 223, 230, 236, 242, 254 (and as a consequence, claims depending therefrom), and Paul and the other noted § 103 rejection references do not teach each and every element in the present claims, either alone or in combination, therefore, the present claims are believed to be allowable, and applicant hereby requests the withdrawal of this and all other rejections regarding independent claims 1, 3, 51, 58, 87, 109, 116, 166, 173, 223, 230, 236, 242, 254 (and as a consequence, claims depending therefrom), and applicant hereby requests allowance of said claims.

CONCLUSION

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicants respectfully submit that the supporting remarks and claimed inventions, claims 1-268, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicants believe that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art.

While many other claim elements were not discussed, Applicants assert that all such remaining and not discussed claim elements, all, also are distinguished over the prior art and reserves the opportunity to more particularly remark and distinguish such remaining claim elements at a later time should it become necessary. Further, any remarks that were made in response to an Examiner objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Examiner objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicants do not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicants respectfully request allowance of all claims, and the reconsideration and withdrawal of the rejection(s) and/or objection(s).

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 19778-002.

In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 19778-002.

Respectfully submitted,

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